

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 1986 of 1995
to
FIRST APPEAL No 2080 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE Y.B.BHATT and
MR.JUSTICE C.K.BUCH

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

EXECUTIVE ENGINEER(PROJECT)

Versus

JADIBEN NAGJI

Appearance:

GOVERNMENT PLEADER for Petitioner
MR PM BHATT for Respondent No. 1

CORAM : MR.JUSTICE Y.B.BHATT and
MR.JUSTICE C.K.BUCH

Date of decision: 27/02/98

ORAL JUDGEMENT

Per : Y.B. Bhatt, J.

1. These appeals have been taken up for final hearing at the joint request of learned counsel for the

respective parties.

2. These are appeals filed on behalf of the State under section 54 of the Land Acquisition Act read with section 96 CPC, challenging the common judgment and awards passed by the Reference Court in References under section 18 of the said Act.

3. Learned counsel for the appellant sought to satisfy us that the compensation awarded by the Reference Court is excessive and requires to be reduced. However, after perusing the judgment carefully and with reference to all such documentary evidence which learned counsel for the appellant referred to, we are of the opinion that the learned counsel for the appellant has failed to make out the contention urged. Ultimately, learned counsel for the appellant conceded that on a balanced and total consideration of the evidence on record, it would be difficult for him to sustain the plea for reduction of the market value determined by the Reference Court.

4. Learned counsel for the appellant then urged that the Land References filed under section 18 of the said Act were time barred and the same ought to have been dismissed.

4.1 This aspect has been dealt with by the Reference Court in the light of the pleadings and submissions made before that court. It was urged before the Reference Court that the copy of the award was not supplied to the concerned applicants alongwith the notices under section 12 (2) of the said Act and that therefore, they were not aware of the contents of the award, and that therefore limitation would run against them only from that point of time when certified copies thereof were available in their hands. We emphasize this point only with a view to point out that the Reference Court is not to be faulted for examining this contention, inasmuch as it was required to deal with the contention as raised, and in the light of the law prevailing at that point of time.

4.2 In view of the decision of the Supreme Court in the case of Land Acquisition Officer v. Shivabai & others, AIR 1997 SC P. 2642, it is clarified that the notices served on the claimants under section 12 (2) of the said Act need not be accompanied by copies of the award. That being the legal position, the contention urged before the Reference Court would be fallacious to say the least. However, that does not by itself enable this Court to come to a conclusion ipso facto that the References were even otherwise time barred.

5. In the light of the case law laid down by the Supreme Court, it becomes clear that the contention raised by learned counsel for the appellant can be sustained only if the State is able to show that the References were filed beyond the period of six weeks counting from the date of the service of the notice under section 12 (2) of the said Act. In this context, we inquired from the learned counsel for the appellant what was the relevant date. Ultimately, learned counsel for the appellant had to concede that the date of service of the notice does not appear from the evidence on record of the Reference Court. Thus, the contention sought to be raised by learned counsel for the appellant cannot succeed.

6. No other contention was raised.

7. In light of the above discussion, these appeals fail and are dismissed with no order as to costs.

Amp / -